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FISCAL IMPACT STATEMENT

LS 6742

BILL NUMBER: SB 355

NOTE PREPARED: Mar 20, 2006

BILL AMENDED: Mar 13, 2006

SUBJECT: Taxation.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR: Rep. Ayres

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Shortfall Appeals:* The bill allows a civil taxing unit or school corporation, with the approval of the county fiscal body, to file a property tax levy appeal to offset a levy shortfall in the preceding year before March 1 of the year the tax is due. The bill establishes, for property taxes payable in 2006, a deadline of April 1 instead of March 1. If such an appeal is filed, the bill allows the county treasurer to either: (1) send tax statements on schedule and send later reconciling statements; or (2) delay tax statements up to 60 days pending resolution of the appeal.

Property Tax Installment Payments: The bill allows a county council to petition the Department of Local Government Finance to establish an installment plan for property tax payments (without requiring the petition to be approved by the county treasurer and county auditor).

Late Payment Penalties: The bill reduces the penalty for a late installment of property taxes from 10% to 5%, if (1) the late installment is completely paid on or before the date 30 days after the installment due date; and (2) the taxpayer is not also liable for delinquent property taxes first due and payable in a previous year for the same parcel. The bill provides for a waiver by the county treasurer of a property tax late payment penalty if the taxpayer or an immediate family member of the taxpayer died in the week preceding the installment due date. The bill also allows an appeal of a penalty waiver denial.

AGI Tax Deduction for Property Taxes: The bill permits in 2006 an additional deduction against Adjusted Gross Income for the payment of delayed property taxes in taxable year 2005.

Effective Date: January 1, 2006 (retroactive); Upon Passage; July 1, 2006; January 1, 2007.

Explanation of State Expenditures: *Forms for Petitions.* The Department of Local Government Finance (DLGF) must prescribe the form that the taxpayer or taxpayer's representative must submit to the county treasurer in order to petition for the waiver. The DLGF must also prescribe what type of written proof is necessary in order to obtain the waiver. The DLGF should be able to cover any additional administrative expenses associated with these provisions given its existing resources and budget.

Indiana Board of Review and the Indiana Tax Court. Because appeals of the local decision regarding the waiver are subject to the same procedures as appeals of assessments and correction of errors, it is possible that the State Board and the Tax Court would review additional cases which would add to their administrative expenses. However, the impact would depend on the number of relevant cases that the board and court receive. Given the eligibility criteria for the waiver, the impact is expected to be negligible.

Department of State Revenue (DOR): The DOR will incur some administrative expenses to implement the extended deduction for certain Pay 2003, 2004, or 2005 property taxes on 2006 tax returns. These expenses presumably could be covered given the DOR's existing budget and resources.

Explanation of State Revenues: *AGI Tax Deduction for Property Taxes.* The bill provides that 2002 Pay 2003 property taxes, 2003 Pay 2004 property taxes, and 2004 Pay 2005 property taxes are deductible from a taxpayer's Adjusted Gross Income (AGI) in tax year 2006 under the homeowner's property tax deduction if: (1) if tax statements for those property taxes were not issued in the appropriate payable years; (2) the taxpayer was not delinquent in remitting the property tax to the county treasurer; and (3) the property tax was not deducted in any previous tax year. As under current statute, the bill limits the deduction of property taxes due for a particular assessment year to the lesser of the property tax or \$2,500.

Under current statute, for tax year 2004 AGI taxes, a taxpayer was entitled to a maximum homeowner's property tax deduction equal to \$2,500 for 2003 Pay 2004 property taxes, and the portion of 2002 Pay 2003 property taxes paid in 2004, up to \$2,500. Under the bill, revenue loss from the deduction of Pay 2003, Pay 2004, and Pay 2005 property taxes that was not incurred in prior fiscal years will likely occur in FY 2007. The magnitude of this revenue impact is indeterminable.

Explanation of Local Expenditures: *Late Payment Penalties.* Current law provides that if an installment of property taxes is not completely paid on or before the due date, a 10% penalty is added to the unpaid portion in the year of the initial delinquency. The bill provides that if full payment of a property tax installment is made within 30 days after the due date, the penalty is 5%.

The bill also provides that the county treasurer must waive the property tax late payment penalty if the taxpayer or taxpayer's representative petitions the county treasurer to waive the penalty not later than 30 days after the due date and the taxpayer files with the petition written proof that during the seven-day period ending on the installment due date the taxpayer or a family member died. The county treasurer must give written notice to the taxpayer by mail of the treasurer's determination on the petition not later than 30 days after the petition is filed. A taxpayer or the taxpayer's representative may appeal the determination by requesting in writing a preliminary conference with the treasurer. The appeal must be processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15, which pertains to appeals of assessments and corrections of errors.

Under IC 6-1.1-15, a taxpayer may obtain a review by the county property tax assessment board of appeals. Not later than 10 days after the conference, the county must forward to the county auditor and the county

property tax assessment board of appeals the results of the conference. The determination of the property tax assessment board of appeals may be appealed to the State Board of Review.

The above provisions could add administrative expenses to the counties affected. However, it is presumed that counties will be able to cover additional expenses given their existing budgets and resources.

The provision applies only to property taxes first due and payable after December 31, 2006.

Explanation of Local Revenues: *Late Payment Penalties:* The waiver provision for taxpayers who died or had a family member who died could reduce the amount of revenue collected for late payment penalties by a negligible amount.

The provision reducing the 30 day late payment penalties from 10% to 5% would reduce the amount of revenue collected for late payment penalties. Property tax penalties for 2005 totaled \$36 M. If this provision had been in place in 2005 and all of this amount qualified for the reduction, there would have been an estimated revenue decrease of \$18 M.

Penalties collected are credited to the appropriate taxing units and are distributed in the same manner as other property taxes—based on a unit's levy as a proportion of all levies within the taxing district.

Property Tax Installment Payments: Under current law, a county may petition the DLGF to establish a schedule of installments for the payment of property taxes on homesteads in the county. The petition must be approved by the county auditor and the county treasurer. Under this provision, the approval of the auditor and treasurer is no longer needed. This provision will make it simpler to establish an installment payment system.

Shortfall Appeals: Under current law, civil and school taxing units may appeal to the state's Local Government Tax Control Board or the School Tax Control Board to exceed their maximum levies to compensate for a shortfall that resulted from erroneous assessed valuation figures being used to calculate tax rates. The taxing unit must file the appeal before September 20.

Under this provision, a civil taxing unit or school corporation has until February 28 to appeal for a shortfall levy, if the county fiscal body gives its approval. In 2006, a shortfall appeal may be filed through March 31, with the county fiscal body's approval.

If a shortfall appeal is filed at the later date allowed by this bill, county treasurers have the option of (1) delaying tax bills until the appeal is resolved or (2) mailing tax bills normally and then mailing a reconciling statement if the unit prevails in its appeal. The first option could delay the receipt of property tax revenues and reduce interest earnings. The second option could increase costs for preparation and mailing of reconciling statements.

This bill could afford a taxing unit or units the opportunity to file for an appeal if the unit is not aware of the erroneous assessments and resulting shortfalls until after the current September 20, filing deadline. The ability to file the later appeal and the choice of when to mail tax bills would be local options. The fiscal impact would depend on local action.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review and; the Indiana Tax Court; Department of State Revenue.

Local Agencies Affected: All taxing units.

Information Sources:

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